

VIRGINIA JORGE AND ANITA VERGARA, PETITIONERS, VS. HON. FRANCISCO Z. CONSOLACION (PRESIDING JUDGE COURT OF FIRST INSTANCE BRANCH II, DAVAO CITY) EMILIO MATULAC, HIS AGENTS AND R...*G.R. No. 60690. November 24, 1989*

Ponente: PARAS, J.

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This case was originally a litigation between two (2) sisters, Concepcion and Nieves, both surnamed Palma Gil, involving a piece of land covered by TCT No. T-432 with a total area of 829 square meters. Civil Case No. 1160 was filed by Concepcion against Nieves and her husband Angel Villarica for specific performance based on an actionable document seeking, among other things to compel Nieves to cede to the former 256.20 square meters of the subject property. The trial court rendered a decision^[1] dated April 7, 1954 in favor of the plaintiff and against defendants ordering the latter to comply with the terms of the document. Said decision was appealed to the Court of Appeals which affirmed the assailed decision prompting the winning party to move for the execution of the decision.

However, because the Provincial Sheriff in executing the decision carved out a specific portion of the land covered by TCT No. 432 containing an area of 256.20 square meters notwithstanding the pronouncement in the decision rendered in Civil Case No. 1160 that the subject lot is an undivided portion of the entire property covered by the title, the defendants brought the matter to Us questioning the actuations of the Sheriff.

Meanwhile, Concepcion sold on October 24, 1956 portions of the subject property identified by the lower court as Lots No. 59-C-1 and 59-C-2 to Iluminada Pacetes. On the other hand, defendant Nieves also mortgaged and sold a portion, known as Lot 59-C-4 to the Prudential Bank.

Subsequently, in Our Resolution, dated August 31, 1961 the actuation of the Sheriff was nullified and the case was remanded to the court of origin for further proceedings.

Upon motion of Iluminada Pacetes, the Court of First Instance issued an order, dated December 7, 1961, allowing her to be substituted for Concepcion Palma Gil who died during the pendency of the case.

When the case was remanded to the Court of First Instance for further proceedings, said court made finding of facts that the defendants mortgaged and sold a portion of the subject property of Lot No. 59-C-4, which lot was then segregated and allotted to her by virtue of the partition made by the Provincial Sheriff of Davao, which partition was questioned by the defendants before the Supreme Court. Because of this, the lower court (CFI) ruled in its Order dated February 17, 1964 that the defendants had waived the benefits of the decision of the Supreme Court rendered on August 31, 1961, and that the conveyance of Lots Nos. 59-C-1 to Iluminada Pacetes and 59-C-2 must stand.

On March 16, 1966, Iluminada Pacetes sold the Lots 59-C-1 and 59-C-2 to a certain Constancio Maglana. Sale

was confirmed by Us in another related case, G.R. No. 52013.

Meanwhile, on May 10, 1977, petitioners herein entered into a Lease Agreement over a portion of the land covered by TCT No. T-432 consisting of 218 square meters with Nieves Palma Gil Villarica.

On April 22, 1980, Maglana sold Lots 59-C-1 and 59-C-2 to Emilio Matulac. The latter is now the private respondent in the petition before Us, while petitioners are the parties of the first part who entered into the aforementioned Memorandum Agreement with the defendant Nieves Palma Gil Villarica.

The two orders of the Court of First Instance, dated December 7, 1961 and February 17, 1964 were questioned by defendants[2] by filing their Motion for Reconsideration which was denied by the Court of First Instance. Defendants brought the question to Us on certiorari which was dismissed by Us on September 16, 1974. By virtue of the finality of the orders, Iluminada Pacetes filed a motion for execution of the decision of the court of origin dated April 7, 1954, which was granted by said court in its Order dated August 19, 1977.

On August 24, 1977, defendants filed a motion to set aside the order of August 19, 1977, which the Court of First Instance denied in its order dated September 2, 1977. Consequently, on September 3, 1977, defendants filed their Motion for Reconsideration of the orders dated August 19, 1977 and September 2, 1977. When the Court of First Instance denied said Motion for Reconsideration, in its order dated September 16, 1977, the defendants brought the matter to the Court of Appeals. However, said court affirmed the questioned orders prompting again defendants to elevate the same to Us on certiorari. In Our resolution, dated January 13, 1982, in G.R. No. 56399 We affirmed the ruling of the appellate court. In effect, therefore, the decision of the trial court dated April 7, 1954, in Civil Case No. 1160 has become final and executory to be executed by virtue of the order dated August 19, 1977 which granted a writ of execution.

By virtue of Our affirmance of the assailed orders and acting upon motion of Emilio Matulac, respondent Judge Francisco Z. Consolacion issued the Writ of Demolition dated April 30, 1982 and Special Order of Demolition dated May 26, 1982 for the removal of petitioners' building and/or structures found therein.

Petitioners now question before Us the authority of the respondent Judge in including in its writ of execution an order to eject herein petitioners and to demolish their house and structure contending that petitioners and private respondents were not parties to the original case and that a separate and independent action to eject petitioners and to demolish their house and structure should have been resorted to by respondent Emilio Matulac who as alleged by petitioners were not properly substituted as one of the indispensable parties of the case. They argued further that the order of the trial court dated April 7, 1954 in Civil Case No. 1160 which was affirmed by Us mentioned nothing about ejectment of the petitioners or anyone who may be found occupying said lot in question nor the demolition of any house or structure found thereat.

Petitioners claimed that the judgment in Civil Case No. 1160 was limited in ordering the defendant Nieves Palma Gil Villarica:

“a) To execute the necessary documents transferring in favor of the plaintiff 256 square meters with 20 meters of Lot No. 59-C;

“b) To construct the building on the land in question; and

“c) To execute the necessary documents ceding in favor of the plaintiff the usufruct of the rent equivalent to one-half (1/2) of the building constructed.”

Petitioners' contentions do not hold water.

When We dismissed on September 16, 1974, the petition for certiorari filed by defendants questioning the orders,

dated December 7, 1961 and December 17, 1964, in effect We had confirmed the sale by plaintiff in Civil Case No. 1160, Concepcion Palma Gil, of Lot 59-C-1 and Lot 59-C-2 to Iluminada Pacetes and affirmed the ruling of the trial court that defendants had waived the benefit of Our Resolution rendered on August 31, 1961. Thus, when defendant Nieves Palma Gil Villarica entered into a Lease Agreement with the petitioners herein on May 10, 1977 over the subject lots, the former was no longer in a capacity as owner to enter into such an agreement in order to bind the subject property. Consequently, such contract cannot be binding on Iluminada Pacetes adjudged as owner of the land in question by the court. Thus, as gathered from the background facts and the previous related orders and resolutions of the trial court which were sustained by Us in Our aforementioned Orders and resolutions, the intent or the gist of the dispositive portion of the initial judgment in Civil Case No. 1160 was necessarily and substantially altered when We ordered in Our resolution dated January 13, 1982, the immediate implementation of the lower court's order of execution dated August 19, 1977, aptly observing that this case has dragged on for twenty-nine (29) years because of the numerous motions filed by defendants which delayed the execution of the judgment in Civil Case No. 1160.

Furthermore, be it remembered that after the issuance of said order of execution petitioners herein without being a necessary party in Civil Case No. 1160, filed with the respondent Judge, "An Urgent Motion to Hold in Abeyance the Writ of Execution" (Annexes "A" pp. 100-101, Rollo). By merely claiming to be the owners of the building sought to be demolished despite the fact that they were merely lessees of the losing party, petitioners cause the continuous stay of the defendant Nieves for a few more months in the land subject of the aforesaid case and was able to collect continuously the amount of P600.00 from the petitioners as the latter's monthly rental of the land to the prejudice of the herein plaintiff's successors-in-interest, respondent Emilio Matulac, who appears to be the present registered owner of the land wherein the building sought to be demolished had been constructed, as evidenced by TCT No. T-80631 of the Registry of Deeds of Davao City dated February 19, 1981.

A reading of the petitioners' Motion for Reconsideration, dated March 3, 1982, (Annex "C") of the order of respondent Judge denying their Motion to Hold in Abeyance the Writ of Execution, shows that the petitioners pray that no demolition of the building and/or improvements found in the land subject of the execution shall take place, unless a special order of demolition shall take place on grounds of equity and justice, notwithstanding the finality of the judgment rendered by the trial court against the defendant in Civil Case No. 1160. To counteract this move of petitioners, plaintiffs' successor-in-interest who is now private respondent Emilio Matulac on April 10, 1982 filed a Motion for Issuance of Special Order of Writ of Demolition, quoted as follows:

"COMES NOW plaintiff, through counsel, and unto this Honorable Court respectfully alleges:

"1. That on January 13, 1982, the Honorable Supreme Court issued a Resolution, which stated among others:

'x x x it is fitting and proper that it be terminated as soon as possible by implementing the lower court's order of execution dated August 19, 1977. x x xxx'

"2. That on February 18, 1982, this Honorable Court issued an order granting the motion of plaintiff for issuance of writ of execution and/or writ of possession;

"3. That defendants Virginia Jorge and Anita Vergara actual occupants of the land filed a series of motion for reconsideration, the last was denied by this Honorable Court on March 26, 1982;

"4. That on March 25, 1982, plaintiff through counsel filed a manifestation before this Honorable Court without prejudice to the writ of execution and possession thus issued, allowing Virginia Jorge and Anita Vergara for humanitarian reasons until April 9, 1982 to vacate the premises under the following conditions:

'a) Issue a definite Special Order of Writ of Demolition of all the structures and/or building in the premises, on

April 9, 1982, if and when Virginia Jorge and Anita Vergara are still in the premises;

'b) That said Virginia Jorge and Anita Vergara will shoulder all the expenses of the demolition of all the structures in the premises;

'c) Such other terms as are consistent with truth and equity.

"5. That until now, April 9, 1982, inspite of the period requested by them and granted Virginia Jorge and Anita Vergara are still staying in the premises;

"6. That justice and equity demand that a Special Order of Writ of demolition of all structures and/or building be issued by this Honorable Court.

"WHEREFORE, it is most respectfully prayed of this Honorable Court that a Special Order of Writ of Demolition be issued and such other relief as may be proper.

"Davao City, Philippines, April 10, 1982.

"(SGD.) VEGA, BATILLER & GOC-ONG

LAW OFFICE

"By: CIRILO A. GOC-ONG"

The aforesaid motion was contested by petitioners in their opposition, dated April 22, 1982. Acting on both pleadings, the respondent Judge issued an Order, dated April 30, 1982, granting to movant Matulac the remedy asked and prayed for.

Petitioners on May 6, 1982, filed their Motion for Reconsideration of the order. On May 26, 1982, respondent Judge had issued an order the pertinent portion of which reads:

"O R D E R

"This bears on the 'Motion for Reconsideration' of the Order of the Court granting plaintiff's motion for issuance of Special Order of Writ of Demolition dated April 30, 1982, based on the following grounds, to wit:

'1. That there was no substitution of parties after the death of Iluminada Pacetes who was substituted for plaintiff Concepcion Palma Gil and therefore the Motions filed for the Issuance of the Writ of Execution, Possession, as well as the Special Order for Demolition and the Orders issued granting the same are all null and void.

'2. That the Motions for Execution, Possession and Special Order of Demolition are all defective for non-notification thereof to defendants of record.

'3. There was no proper notification of the Motion for Special Order of Demolition.

'4. That the Special Order of Demolition is improper against movants for they are not parties to the case.'

and the Opposition thereto filed on May 7, 1982 by Atty. Cirilo A. Goc-ong, counsel for the plaintiff, based on the following grounds, to wit:

'1. That all motions for reconsideration (about five) previously filed by movants had been denied by this Honorable Court;

'2. That Virginia George and Anita Vergara have not intervened and were not allowed to intervene by this Honorable Court;

'3. That consequently movants have no right to file any pleading, much less, a Motion for Reconsideration;

'4. That since February 18, 1982, movants have been filing many pleadings to delay the enforcement of the writ of execution;

'5. That in fact the records will show that movants were granted up to April 9, 1982, within which to vacate the premises but still stubbornly refused;

'6. That all pleadings which movants may subsequently file before this Honorable Court should be treated as a scrap of paper and Atty. Pedro Alcantara should be admonished for filing said useless pleadings;

'7. That justice and equity demand that said motion for reconsideration be denied.

"After a thorough deliberation of the grounds advanced by both parties, the Court finds no merit on the first ground advanced by movants, because the same was already resolved by the Supreme Court in its decision dated August 26, 1980, a portion of which reads as follows:

'With regard to the appellant's contention that Iluminada Pacetes has no personality to ask for the execution of the decision, this Court finds the same to be of no moment. It must be remembered that Iluminada Pacetes brought the subject land from the late Concepcion Palma Gil. With the transfer of interest to her, Iluminada Pacetes was thus subrogated to the rights and obligations of the late Concepcion Palma Gil with respect to the land. She would be the one benefited or injured by the judgment or become entitled to the avails of the suit. Besides Iluminada Pacetes has been properly substituted to the deceased plaintiff upon her motion and with the approval of the Court. She is, therefore, a real party-in-interest.'

"Emilio Matulac, having brought the land in question from Constancio Maglana, who bought it from Iluminada Pacetes, is subrogated to the rights, interests and obligations of the latter, and therefore, is a real party in interest, and has personality to ask for the execution of the decision in this case.

"The second and third grounds of movants are not well-taken, because the record shows, that the motions for execution, possession and special order of demolition were all served on Atty. Reynaldo Villarica, counsel for the defendants, through FAR Corporation.

"As to the 4th ground of movants, that the special order of demolition is improper against them for they are not parties to the case, this Court finds no merit in the same because movants Virginia Jorge and Anita Vergara are actually in possession of the land in question now without authority, and so the special order to demolish their building and/or structures thereof is properly applicable to them.

"Moreover, movants have no personality to intervene in this case, they being not parties to the case.

"IN VIEW OF THE FOREGOING, the instant motion is hereby DENIED.

"SO ORDERED.

"Davao City, May 26, 1982.

"FRANCISCO E. CONSOLACION

J u d g e"

(Annexes "F" for Respondents, pp. 125-127, Rollo)

Consequently, on May 27, 1982, a "Writ of Demolition (Annex "G" for Respondents, pp. 128, Rollo), was issued by the respondent Judge. It has been shown therein that all the legal requirements as provided for under Sec. 10 and Sec. 14 of Rule 39 of the Rules of Court for the issuance of the writ of demolition had been strictly complied with before the demolition of the structures and that possession by the private respondent had been finally carried out and/or enforced. Secs. 10 and 14 of Rule 39 read as follows:

"Section 10. - If a judgment directs a party to execute a conveyance of land or deliver deeds or other documents, or to perform any other specific act, and then fails to comply within the time specified the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act so done shall have like effect as if done by the party. If real or personal property is within the Philippines, the court in lieu of directing conveyance thereof may enter judgment divesting the title of any party and vesting it in others and such judgment shall have the force and effect of conveyance executed in due form of law."

"Section 14. - When the property subject of the execution contains improvements constructed or planted by the judgment debtor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court issued upon petition of the judgment creditor after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court."

It appears from the record that the said buildings and/or structures were actually demolished last June 14, 1982, and the land hereof is now in the possession of the private respondent Emilio Matulac as per "Delivery Receipt" dated June 15, 1986 (p. 11, Rollo).

We agree with the trial court in its finding that respondent Emilio Matulac had every right to ask for the writ of execution, since having bought the land in question from Constancio Maglana, who bought the land from Iluminada Pacetes, he was subrogated to the rights, interests and obligations of the latter and therefore, is a real party in interest as against the alleged rights of petitioners who were in possession of the land in question as lessees by virtue of a Contract or Agreement of Lease with Nieves Palma Gil Villarica who was declared not the owner of the land in question. It is established therefore that petitioners were in possession of the land in question without the legal right to do so. Hence the special order to demolish their building and/or structures therein was properly applicable to them, as they had no authority from the registered owner, who has every right as an act of ownership to request the court for a special order of Demolition of any existing structure found within his property.

It is noted that during the rendition of the judgment in Civil Case No. 1160, the parties were not yet awarded their respective shares in the property. In other words, there was yet no partition of the property and the parties were merely entitled to pro-indiviso shares. Under the circumstances, no ejectment order could be directed to the defendant (Nieves Palma Gil) or to any of the co-owners of the property in question. Furthermore, the power of the court to issue the order of execution cannot be limited to what is stated in the dispositive portion of the trial court's judgment in Civil Case No. 1160, in view of the continued failure of Nieves Palma Gil Villarica or the defendant in said case, to comply with what was required of her in said judgment. In fact, Nieves Palma Gil Villarica was in possession of the property illegally for several years, depriving the plaintiff Concepcion and her successors-in-interest of their legal right to possess the lot in question. The petitioners, as mere lessees of the losing party, have no rights whatsoever to claim and to be protected by the mantle of the law and neither do they have the right to intervene and/or block the execution of the judgment in Civil Case No. 1160.

WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.
Melencio-Herrera, J., (Chairman), on leave.

[1] Penned by Judge Enrique A. Fernandez

[2] Nieves Palma Gil and husband Angel Villarica

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